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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

Eddie Dutchover

Plaintiff,

v.

Moapa Band of Paiute Indians, *et al.*,

Defendants.

Case No. 2:19-cv-01905-KJD-BNW

**STIPULATION AND ORDER TO  
CONTINUE EARLY NEUTRAL  
EVALUATION**

**(FIRST REQUEST)**

Plaintiff and Defendants, by and through their attorneys of record, hereby stipulate and agree to the following:

1. Defendants filed a motion to dismiss on November 12, 2020 (ECF 28).
2. On December 16, 2020, the parties filed a stipulation to allow Defendants to file a reply brief supporting the motion to dismiss on December 30, 2020 (ECF 40).
3. In that same stipulation, the parties proposed that the Court modify the schedule for submitting a discovery plan under LR 26-1(a) to allow the parties to confer within seven days of

1 the ruling on the pending motion to dismiss and to present a discovery plan to the Court within 14  
2 day of the ruling on the motion to dismiss. (ECF 40 ¶ 13).

3 4. The Court approved this stipulation on January 11, 2021. (ECF 45).

4 5. On April 7, 2021, the Court entered a minute order for the parties to file a proposed  
5 discovery plan and scheduling order (“DPSO”) by April 21, 2021. (ECF 48).

6 6. On April 8, 2021, the parties filed a stipulation seeking to modify the schedule set  
7 forth by the minute order, to allow the parties to confer within seven days of the ruling on the  
8 pending motion to dismiss and to present a discovery plan to the Court within 14 day of the ruling  
9 on the motion to dismiss. (ECF 49).

10 7. The Court has also scheduled an early neutral evaluation (“ENE”) session for May  
11 4, 2021 before Magistrate Judge Youchah, with confidential ENE statements due April 27, 2021.  
12 (ECF 47).

13 8. Briefing on the motion to dismiss has been completed, with Plaintiff filing their  
14 response brief on December 10, 2020 (ECF 37) and Defendants filing their reply brief on  
15 December 30, 2020 (ECF 42).

16 9. It is likely that the pending Motion to Dismiss will not be decided by the date set  
17 for the ENE.

18 10. Because the pending motion seeks to dismiss all claims against all Defendants, until  
19 the motion is decided the parties will not know which defendants or claims, if any, will remain in  
20 the case to be evaluated on the merits. Thus, it would be inefficient have the ENE involving all  
21 claims and all defendants at this time.

22 11. Furthermore, because the Court approved and adopted the parties’ stipulation on  
23 January 11 that the parties’ discovery plan shall be presented to the Court within 14 days of the

Court's ruling on the pending Motion to Dismiss, ECF 45, and the parties seek to reestablish that schedule, *see* ECF 49, no discovery has taken place and the parties have not yet conferred to develop a DPSO.

12. For efficiency, the parties propose to postpone the ENE until after the Court makes its ruling on the Motion to Dismiss.

13. This is the first request by the parties to extend the date set for the ENE.

14. This request for a continuance is submitted in good faith and, accordingly, is not made for the purpose of delay.

#### PROPOSED SCHEDULE

15. The parties stipulate, agree and propose that ENE shall be postponed until 30 days after the Court makes its ruling on the Motion to Dismiss, at the convenience of the Court, and the deadline for the Court to receive the ENE statements from the parties' counsel shall be continued and rescheduled to be due one week before the rescheduled ENE.

Dated: April 12, 2021

Dated: April 12, 2021

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**ORDER**

**IT IS HEREBY ORDERED that the Stipulation and Order to Continue Early Neutral Evaluation (ECF No. 50) is GRANTED.**

**IT IS FURTHER ORDERED that the ENE scheduled for May 4, 2021 is hereby VACATED based on the request of the parties.**

**IT IS FURTHER ORDERED that the parties to this matter are to file a notice with the undersigned U.S. Magistrate Judge within five court days of the decision issued on the pending Motion to Dismiss if dismissal of all claims is not granted. The Notice shall identify three dates on which the parties are available to attend the ENE. The dates shall be within 60 days of the Court's order regarding the Motion to Dismiss.**

  
**UNITED STATES MAGISTRATE JUDGE**

**DATED: April 13, 2021**